

of Bank Plus securing a scheduled claim of approximately \$495,000.00.⁴

5. Earwood is the managing member and sole owner of the debtor.⁵ Earwood is also a co-debtor on the Bank Plus debt.⁶

6. On or about September 21, 2005, the UST filed his Motion to Disqualify Michael F. Earwood as Attorney for Debtor in Possession alleging that Earwood was an insider of the debtor and therefore was not disinterested as required by 11 U.S.C. § 327. On or about November 15, 2005, the court granted the UST's motion and disqualified Earwood as attorney for the debtor in possession.

7. An order was subsequently entered dismissing the chapter 11 proceeding on or about June 28, 2006.

Northlake II

8. On or about September 14, 2006, the debtor by and through its attorney, Robert B. Childers ("CHILDERS") of the law firm Earwood and Childers, PLLC , filed a voluntary petition for relief pursuant to 11 U.S.C. chapter 11. Subsequent thereto the debtor has continued the operation of its business as a debtor-in-possession pursuant to 11 U.S.C. § 1107(a).

Argument

Because of the unique nature of the bankruptcy process the standards for the employment of professionals are strict. Professionals should be free of the slightest personal interest which might be reflected in their decisions concerning matters of a debtor's estate or which might impair the high degree of impartiality and detached judgement expected of them during the administration of the case. *In re Consolidated Bancshares, Inc.*, 785 F.2d 1249, 1256 (5th Cir. 1986).

11 U.S.C. § 327 authorizes a trustee or a debtor-in-possession with court approval to employ professional persons that do not hold or represent an interest adverse to the estate and that are disinterested. In other words, the professional must satisfy a two (2) prong test. First, the professional must not hold or represent an interest adverse to the estate. Secondly, the

⁴ Schedule D.

⁵ Question 21(b), Statement of Financial Affairs.

⁶ Schedule H.

professional must be disinterested.

The disqualification of Earwood in Northlake I is res judicata and the debtor and / or Earwood and Childers, PLLC, are collaterally estopped from re-litigating this issue.⁷ Childers as a member of Earwood and Childers, LLC , is likewise disqualified. See *In re Petro Servve, Ltd*, 97 B. R.856, 861 (Bankr. S. D. Miss. 1988) (each member of affiliated “group” of attorneys had a sufficient relationship with the others to warrant the group's disqualification because one member was not disinterested).

Conclusion

In conclusion the UST respectfully submits that Childers should be disqualified as the attorney for the debtor-in-possession and prays for an order granting his motion and for all other general and equitable relief to which entitled.

Respectfully submitted,

R. MICHAEL BOLEN
United States Trustee
Region 5, Judicial Districts
of Louisiana and Mississippi

By: /s/ Ronald H. McAlpin
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⁷ Earwood is an insider and therefore is not disinterested. In the case of a partnership, an insider includes general partner of the debtor; relative of a general partner in, general partner of, or person in control of the debtor; partnership in which the debtor is a general partner; general partner of the debtor; or person in control of the debtor. 11 U.S.C. 101(31)(c). At the very least Earwood, as the sole owner and managing member of the debtor, is a person in control of the debtor and therefore is not disinterested.

CERTIFICATE OF SERVICE

I, Ronald H. McAlpin, Assistant U. S. Trustee, do hereby certify that a copy of the foregoing pleading has been served this day on the below named individual(s) via first class U.S. Mail at the address listed below or by Notice of Electronic Filing via the email address on file with the court's CM/ECF system:

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Dated: September 14, 2006

/s/ Ronald H. McAlpin
Ronald H. McAlpin
Assistant U. S. Trustee